REMARKS

The latest Office Action, dated November 19, 2003, considered claims 1, 4, 5, 7, 8, 14, 15, 19, 33-42 and 44-47. Claims 1, 4-8, 14-15, 19, 33-42, 44 and 46-47 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Perlman (WO 98/56128), in view of Ballard (U.S. Patent No. 6,182,050), and in further view of Eldering (U.S. Patent No. 6,457,010).[1] Claim 44 was objected to for informalities, which have been corrected by this paper[2], and claim 45 was objected to as being dependent upon a rejected base claim, but would otherwise be considered allowable if rewritten in independent form.

By this paper claims 1, 34 and 44 have been amended and new claim 48 has been added, such that claims 1, 4, 5, 7, 8, 14, 15, 19, 33-42 and 44-48 remain pending. The only independent claims at issue are claims 1, 34, 44 and new claim 48.

The claims recite methods for inserting targeted advertisements into documents that are displayed to a user. In particular, the recited methods include the acts of compiling a user profile that is based at least in part on the television programming that is viewed by the user, requesting and displaying an information document, and then using the user's profile to select an advertisement that is inserted into the document for display to the user.

The method and corresponding computer program product that are recited in claims 1 and 34 also include the act of replacing a preexisting advertisement in the document by overwriting the preexisting advertisement with the a new advertisement that is selected by the client.

The method and corresponding computer program product that are recited in claims 44 and new claim 48 are directed to an alternative embodiment in which more recently viewed television programming is given more weight in creating the user's profile than older programming.

With regard to claims 1 and 34, the Examiner determined that the newly amended claim language "overwriting" was essentially analogous to the term "overlaying" and did not therefore distinguish from Perlman, which disclosed overlaying advertisments. Applicant respectfully disagrees.

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[1] Although the prior art status of the cited art is not being challenged at this time, Applicants reserve the right to challenge the prior art status of the cited art at any appropriate time, should it arise. Accordingly, any arguments and amendments made herein should not be construed as acquiescing to any prior art status of the cited art.

[2] The term "older programming" in claim 44 was objected to as possibly introducing some ambiguity. The Examiner suggested the term "older programming" be replaced with "less recently viewed television programming", which has been done.

In Perlman, it is disclosed that an advertisement can be displayed by overlaying the advertisement over a web page, between pages, or while pages are loading. P. 18; ll. 15-16. In this regard, the advertisements are displayed independently or concurrently with the web pages. The advertisements are stored separately from the web pages and are periodically inserted during the user's browsing session, as further described on page 13, through banners that are displayed amidst other content or by periodically interrupting a user's browsing, just as TV ads interrupt a user's TV watching. (ll. 1-3, 22-25).

Accordingly, although Perlman does disclose that advertisements can be displayed by overlaying an existing web page, there is no reference, teaching or suggestion in Perlman that the data representing a selected advertisement is inserted into the actual information document that is received from the server and in such a manner as to overwrite a preexisting advertisement that was included with the information document, as claimed. Instead, the cited passages in Perlman, regarding overlaying a web page with an advertisement, suggest that new advertisements are not inserted into the actual web pages, but are instead merely displayed concurrently with the web page in an overlaying type manner. Although the end user's experience may be the same, seeing the display of an advertisement with a web page, there is a big difference between inserting an advertisement into the web page, as claimed, and simply displaying the advertisement with the web page in an overlaying type fashion.

To even further distinguish from the cited art, claims 1 and 34 have also been amended to reflect that the preexisting advertisement is overwritten in the information document prior to the information document even being displayed. Accordingly, the display of the newly selected advertisement is more than a facade that is created by overlaying an existing advertisement. Instead, the newly selected advertisement actually overwrites/replaces a preexisting advertisement within the document, thereby modifying the information document before it is even displayed. This is neither anticipated by nor made obvious by Perlman or the other cited art, either singly or in combination.

Accordingly, for at least these reasons, Applicant respectfully submits that independent claims 1 and 34 are distinguished from the cited art, and are in condition for allowance, along with all of their corresponding dependent claims.

Next, with regard to independent claim 44, the Examiner has interpreted references to a session profile in Eldering as inherently including the weighing of recently viewed television

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programming more heavily than less recently viewed television programming when developing viewer profiles. The Examiner's logic in this regard, however, appears to be flawed. In particular, the Examiner appears to be suggesting that simply because a session profile does not include as much data as an average profile, it inherently fails to consider less recently viewed programming. The flaw with this reasoning, however, is that it fails to recognize that a session profile can include the viewing history of multiple programs viewed during a session, which would thereby cause the session profile to be composed of both more recently and less recently viewed programming.

In other words, it appears that the Examiner is suggesting that Eldering weighs recently viewed television programming more heavily than less recently viewed television by giving zero weight to less recently viewed television programming. This assumption is based on an arbitrary distinction made by the Examiner that a session profile fails to consider less recently viewed television programming, simply because an average profile considers more data than the session profile. Such a distinction, however, does not appear to have support in Eldering. To the contrary, Eldering suggests that a session profile includes the viewing history of multiple programs. In particular, Eldering states that "each program contribut[es] to the household session interest profile", suggesting more than one program is considered. Accordingly, Eldering suggests that both recently and less recently viewed programming are considered. Eldering fails, however, to suggest or support that the more recently viewed programming is given any more weight in the profile than less recently viewed programming. Instead, Eldering explicitly teaches that it is the duration of time over which the program is watched that is used to weigh the value of the program in a resultant session interest profile. Col 12, ll. 52-66.

Nevertheless, to further assist the Examiner in distinguishing the claims from the cited art, Applicants have amended claim 44 to clarify that the user's profile is composed of both recently viewed programming as well as less recently viewed programming, with the more recently viewed programming being given more weight. Accordingly, the session profile disclosed in Eldering should no longer be confused with the claimed profile, even if the Examiner still considers that session profile fails to consider less recently viewed television programming.
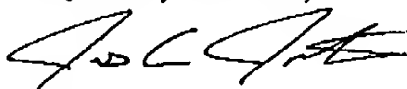
Application No. 09/264,432
Amendment "A" dated January 20, 2004
Reply to Office Action mailed November 19, 2003

For at least the foregoing reasons, Applicant respectfully submits that claim 44, all of the corresponding dependent claims, and new corresponding computer program product claim 48, are now in condition for allowance.

In the event that the Examiner finds remaining impediment to a prompt allowance of this application and pending claims 1, 4, 5, 7, 8, 14, 15, 19, 33-42 and 44-48 that may be clarified through a telephone interview, the Examiner is requested to contact the undersigned attorney.

Dated this _20_ day of January 2004.

Respectfully submitted,

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